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From:

Sent: Thursday, July 03, 2008 2:03:04 PM

To:

Cc:

Subject: RE: Section 6511

As you mentioned, the taxpayer paid his taxes on April 15, . The taxpayer did not, however, file an income tax return until . Your question was whether the taxpayer's claim for refund (i.e. his 1040 filed in) was timely under 6511(a). The answer is yes, the taxpayer has 3 years from the time the return is filed or 2 years from the time the tax was paid, whichever period expires later, to file a claim for refund. While the 2 year period expired, the taxpayer can still take advantage of the 3 year period. The 3 year period starts with the filing of the return, regardless of whether the return is timely. Under your facts, the taxpayer's return and request for refund were simultaneous and therefore, the taxpayer's claim is timely under 6511(a). You may also want to look at Rev.Rul. 76-511 and Omohundo, 300 F.3d 1065 (9th Cir 2002). Also note that the provisions under 6511(b) protect against stale claims.

If you have any additional questions regarding the 6511, please feel free to contact me. Thanks.